

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>Ralph Cruz, et al.,</b>	)	<b>Case No.: 1:12-cv-01329</b>
	)	
<b>Plaintiffs,</b>	)	<b>Magistrate Judge Kenneth S. McHargh</b>
	)	
<b>vs.</b>	)	
	)	
<b>B. McDermott Enterprises, Inc., et al.,</b>	)	<b><u>JOINT STIPULATION TO CONDITIONAL</u></b>
	)	<b><u>CERTIFICATION AND NOTICE</u></b>
	)	
<b>Defendants.</b>	)	

Now come Plaintiffs and Defendants pursuant to Federal Rules of Civil Procedure 26(d) and 83(b), Section 16(b) of the Fair Labor Standards Act (“FLSA”), and 29 U.S.C. § 216(b) and hereby jointly agree to conditionally certify the present FLSA collective action and provide notice to the putative class members of Plaintiffs’ FLSA claims. The agreed notice to the putative class members and consent form are attached hereto as Exhibits 1 and 2 respectively. The notice will be sent in accordance with the following schedule:

1) Defendants shall promptly provide Plaintiffs a list containing the name, last known home address (including zip code), and last known phone number of all former hourly employees who were employed by B. McDermott Enterprises, Inc. d/b/a Ben Franklin Plumbing – North Royalton and/or Invisible Excavations, LLC at any time on or after February 8, 2010. Plaintiffs have informed Defendants that they intend to file a motion for equitable tolling, which Defendants oppose. If and only if Plaintiffs’ motion for equitable tolling is granted, a second notice will be sent out to putative class members between three years prior to the date of the equitable tolling and February 8, 2010 under the same restrictions as are stated below.

2) Plaintiffs shall mail the notice to the individuals appearing on the list referred to in paragraph 2 via First Class Mail as soon as practical after the Court approves notice, and provide proof of mailings to Defendants;

3) The opt-in period will close as to the potential opt-in plaintiffs forty (40) days after both the Court approves notice and Plaintiffs' counsel's receipt of the information described in Paragraph 2; and

4) Neither party shall contact, either directly or indirectly, any of the potential opt-in plaintiffs for any reason, except that Plaintiffs' counsel may contact the opt-in Plaintiffs for the express limited purpose of confirming their receipt of notice.

Respectfully submitted,

/s/William E. Blackie

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 13, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the court's electronic filing system. Parties may access this filing through the court's system.

/s/William E. Blackie  
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